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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

SANDERSON, JOSEPH W

ART UNIT

PAPER NUMBER

3644

MAIL DATE

DELIVERY MODE

04/28/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/577,945	Applicant(s) SAGIV, SHIMSHON	
	Examiner Joseph W. Sanderson	Art Unit 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 5-7, 13-15, 17-29 and 34-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-12, 16 and 30-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 May 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of group I, species A in the reply filed on 4 February 2009 is acknowledged.
2. Claims 5-7, 13-15, 17-29 and 34-36 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4 February 2009.

Drawings

3. Figures 1A-C should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means"

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and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The abstract of the disclosure is objected to because it includes legal phraseology (e.g. "means") and implied information (e.g. "is also taught"). Correction is required. See MPEP § 608.01(b).

6. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3, 8 and 30-33 are rejected under 35 U.S.C. 102(b) as anticipated by Happel (US 4 200 058).

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Regarding independent claims 1 and 30:

Happel discloses an apparatus for gripping the teat of an animal and assisting in drawing milk from the animal via a compressible milk collector, said apparatus including:

a housing (2);

a plurality of constricting elements (19-21) arranged in said housing in touching relation to the milk collector (3), said constricting elements being selectably operable in constricting and non-constricting modes;

means for selectably switching said constricting elements back and forth between non-constricting and constricting modes (pressurized air supply means and valves, 11 and those not shown; col 4, lines 24-30); and

a controller (7) in communication with said means for selectably switching, said controller operative (i.e. capable) to effect a predetermined timing and sequence for periodically switching said constricting elements between their constricting and non-constricting modes, thereby to compress the teat of the animal drawing milk therefrom.

Regarding claims 2 and 31:

The discussion above regarding claims 1 and 30 is relied upon.

Happel discloses the constricting elements as pneumatically inflatable sack-like elements (as generally seen in Fig 3).

Regarding claims 3 and 32:

The discussion above regarding claims 2 and 31 is relied upon.

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Happel discloses the means for selectively switching as pneumatic means (air providing means and valves).

Regarding claim 8:

The discussion above regarding claim 1 is relied upon.

Happel discloses the housing as cylindrically-shaped (as seen in Figs 1-3).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-4, 8-12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Happel ('058) in view of Brazil et al. (US 6 537 033).

Regarding independent claims 1 and 9:

Happel discloses a system for milking an animal, said system including:

at least one apparatus for gripping the teat of an animal and assisting in drawing milk from the animal via a compressible milk collector, said apparatus including:

a housing (2);

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a plurality of constricting elements (19-21) arranged in said housing in touching relation to the milk collector, said constricting elements being selectably operable in constricting and non-constricting modes;

means for selectably switching said constricting elements, back and forth between the non-constricting and constricting modes (pressurized air supply means and valves, 11 and those not shown; col 4, lines 24-30); and

a milking claw (7) in flow communication with the milk collector and which collects milk accumulated within the milk collector, said claw having a vent to maintain atmospheric pressure on the teat.

Happel does not disclose a controller in communication with said means for selectably switching, said controller operative to effect a predetermined timing and sequence for periodically switching said constricting elements between the constricting and non-constricting modes;

a suction generating means that draws milk from said claw; and

a collection vessel in flow communication with said suction generating means in which milk drawn from said milking claw is collected.

Brazil teaches a milking device having a controller to operate the device (as seen in Figs 3-5), a suction generating means (24) and a collection vessel (44).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Happel to use a controller, suction device and collection vessel as taught by Brazil for the well-known predictable advantages of automatically operating the device, and transporting the milk from the animal for storage.

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Regarding claims 2 and 10:

The discussion above regarding claims 1 and 9 is relied upon.

Happel as modified renders the constricting elements as pneumatically inflatable sack-like elements (as generally seen in Fig 3).

Regarding claims 3 and 11:

The discussion above regarding claims 2 and 10 is relied upon.

Happel as modified renders the means for selectively switching as pneumatic means (air providing means and valves).

Regarding claims 4 and 12:

The discussion above regarding claims 3 and 11 is relied upon.

Happel as modified renders the pneumatic means as an air compressor (the pulsator provides compressed air) and valves responsive to the controller (as taught by Brazil).

Regarding claims 8 and 16:

The discussion above regarding claims 1 and 9 is relied upon.

Happel as modified renders the housing as cylindrically-shaped (as seen in Figs 1-3).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph W. Sanderson whose telephone number is (571)272-0474. The examiner can normally be reached on M 6:30 am - 11:30 am, T-F 6::30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael R. Mansen can be reached on (571)272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael R Mansen/
Supervisory Patent Examiner, Art Unit 3644

/J. W. S./
Examiner, Art Unit 3644